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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,907	10/02/2005	Uwe Bornmann	2005_0770A	9736
513 7590 04/06/2007 WENDEROTH, LIND & PONACK, L.L.P. 2033 K STREET N. W. SUITE 800 WASHINGTON, DC 20006-1021			EXAMINER YAO, SAMCHUAN CUA	
			ART UNIT 1733	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE			MAIL DATE	DELIVERY MODE
3 MONTHS			04/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/533,907

Applicant(s)

BORNMAN ET AL.

Examiner

Sam Chuan C. Yao

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 5-5-05.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Examiner has required for Applicant to elect between Group I (process claims 1-6) and Group II (product by process claim 7). On 03-21-07, Counsel has elected group I with traverse. However, upon further reviewing this application, it was determined that a restriction requirement between these two groups would not be proper since this application is filed as a 371. For this reason, the restriction requirement has been withdrawn.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 is indefinite, because it is unclear whether this claim positively requires performing a step of subjecting a textile web to a hydrodynamic solidification process. While the preamble of this claim is directed to a "[m]ethod for applying a textile auxiliary during a hydrodynamic solidification process", the body of this claim only require adding a textile auxiliary in a metered doses into a fluid which is to be used for a hydrodynamic solidification. For the purpose of examining this claim, it is assumed the claims positively require a step where a fiber web is subjected to a hydrodynamic solidification process. Additionally, a term "textile

auxiliary" is assumed to embrace any materials, which are incorporated into a fiber web to provide a desired characteristic to a finished web.

Claim 2 is indefinite, because the limitation "the system of the hydrodynamic solidification" does not have a positive antecedent basis.

Claim 3 is indefinite, because it is unclear what is intended by the limitation "two or more non-solidified or pre-solidified nonwoven fabrics ...". This limitation appears to be disjointed from claim 1 in that, it is unclear how the nonwoven fabrics in this claim are related to the geotextile in claim 1. For the purpose of examining this claim, a layered fabric in this claim is assumed to be a fiber web in claim 1 which is subjected to a "hydrodynamic solidification process".

Additionally, "non-solidified or pre-solidified nonwoven fabrics" are assumed to be fabrics which have not been or have been subjected to a pre-hydrodynamic "solidification process", respectively.

Claim 4 is indefinite, because it is unclear what is intended by "the nonwoven fabric [singular] to be solidified or the nonwoven fabrics [plural] to be bonded are ..." (emphasis and words added). Just like claim 3 above, this claim appears to be disjointed from claim 1 as evidence from the fact that the above phrases do not have positive antecedent basis. Equally important, if plural fabrics are used, when is the bonding operation performed? Is it before or after a hydrodynamic solidification process in claim 1? Additionally, a broad range or limitation followed by linking terms (e.g., such as, preferably, maybe, for instance, especially) and a narrow range or limitation within the broad range or limitation is considered

indefinite since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. For the purpose of examining this claim, the limitation in this claim is assumed to require a nonwoven fabric **or** unbonded multi-ply synthetic nonwoven fabric, where either of this fabric is used as a fibrous workpiece web in a process in claim 1. In other words, the nonwoven fabric in this claim does not have to be comprised of synthetic material.

Claim 5 is indefinite, for essentially the same reason set forth in claim 4 above. For the purpose of examining this claim, the limitation in this claim is assumed to require a nonwoven fabric **or** unbonded multi-ply nonwoven fabric, where either of this fabric is used as a fibrous workpiece web in a process in claim 1, and wherein the multi-ply fabric comprises bi-component fibers. In other words, the nonwoven fabric to be solidified in this claim does not have to be comprised of bi-component fibers.

Claim 6 is indefinite, because the limitation "the nonwoven fabric(s)" does not have positive antecedent basis.

The claims as presently written are replete with 112 2nd paragraph problems, thereby making it extremely difficult to properly determined the intended scope of the claims. These claims were examined as best understood by the examiner to be the intended meaning the claimed invention. It is strongly suggested for Applicant to amend all claims to make them conform to US claim drafting practice.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 3926008 in view of either Ehret et al (US 5,783,504) or Kurihara (US 4,992,124).

With respect to claims 1, 4-5 and 7, DE, drawn to "an eddy fleece material by hydrodynamic solidification", discloses a process for fibrous webs for use as mulching fabrics (taken to be a geotextile). The process comprises providing a nonwoven web; and applying a jet stream of aqueous solution into the nonwoven web, wherein the aqueous solution is formed by incorporating a soluble active substance such as fungicide, insecticides, surfactant, etc. to water "in a concentration necessary for the application" (English abstract; and computer English translation). While DE expressly teaches adding soluble active substance to water "in a concentration necessary for the application", DE is silent on whether the active substance "is added in metered doses directly into the" water which is used in a water jet system. However, such would have been an obvious expediency in the art in order to continuously supply an active substance which has the "needed concentration necessary for the application" to a water jet system so that the process of DE can be operated in a continuous manner. DE does not teach using "continuous fibers" (taken to be filaments). However, such would have been obvious in the art as such is an art recognized fibrous material for making non-woven webs for use as mulching sheets or geotextiles as exemplified in the teachings of either Ehret et al (abstract; col. 1 lines 52-58; figure 1).

With respect to claim 2, since a metered or dosing pump is an art recognized way to effectively deliver a fluid from a reservoir at a desired amount and flow rate to another location such as a mixing means, for this reason, this claim would have been obvious in the art.

With respect to claim 3, see the teachings of anyone of the two secondary references where it discloses using a "non-solidified" multi-layered nonwoven web.

With respect to claim 6, DE teaches using natural fibers, while Ehret et al or Kurihara teaches using synthetic filaments for making essentially the same types of articles (geotextile/mulch). It is now well settled that, It is now well settled "It is prima facie obvious to combine two compositions each of which is taught by the prior art to be useful for the same purpose, in order to form a third composition to be used for the very same purpose ... [T]he idea of combining them flows logically from their having been individually taught in the prior art." In re Kerkhoven, 626 F2d 846, 205 USPQ 1069, CCPA 1980).

Likewise, it would have been obvious to one having ordinary skill in the art to combine two known processes, each of which is taught by the prior art to be useful for the same purpose, to form a new process to be used for the same purpose. Moreover, combining natural fibers and synthetic fibers is an art recognized effective way for forming a fiber web for use in geotextile/mulching applications. For these reasons, this claim would have been obvious in the art.

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Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Chuan C. Yao whose telephone number is (571) 272-1224. The examiner can normally be reached on Monday-Friday with second Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Richard Crispino can be reached on (571) 272-1171. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Sam Chuan C. Yao
Primary Examiner
Art Unit 1733

Scy
03-22-07